

Town of Milford
Zoning Board of Adjustment Minutes
February 15, 2007
Leighton White/Darryl & Sherry Bisson
Case #4-07
Special Exception
Tabled from February 1, 2007

Present: Katherine Bauer – Acting Chairman
Bob Levenson
Fletcher Seagroves
Ron Pieper, Jr.
Rick Westergren - Alternate

Secretary: Kathryn Parenti

Leighton A. White along with Darryl S. & Sherry E. Bisson, owners of Map 24, Lot 29-1, Walker St, in the Residential “A” district, are requesting a Special Exception from Article V, Section 5.022.H to construct a new single family residential dwelling fifteen (15) ft from the front property line and five (5) ft from the side property line.

Motion to Approve: _____

Seconded: _____

Signed: _____

Date: _____

K. Bauer, acting chairman, read the notice of hearing into the record. She stated that, in the Town of Milford Zoning Ordinance, in Residence "A", infringing in the setbacks is allowed by special exception if it meets all the conditions. She also read the letter from Darryl and Sherry Bisson, authorizing Leighton White to represent them. She then read the abutters list into the record; Susan Militello of 23 Johnson Street, Robert and Catherine Perry of 29 Johnson Street, and Tom Benedict of Meridien Land Services were present. Tom Benedict explained that he was presenting with Leighton White. He began by stating that the Bissons own two (2) lots of record that were created in 1904, and the owners are being taxed for two (2) buildable lots. The Bissons put out feelers to see if they could sell the buildable lot as a building lot. In the course of research, it was discovered that the previous owners of the Bisson property had agreed to build a turnaround on the end of Walker Street as a condition for the approval of the construction of the existing home; this was never done. This proposal includes the construction of a turnaround for town use. In 1904, when the property was first surveyed, people did not care about wetlands; now they do and there are currently wetlands on the property. The location of the proposed house would not be infringing on the twenty five (25) foot buffer. The building envelope is small due to the wetlands and they would need to get a special exception to build within the current setbacks.

L. White hired Meridien to do the survey of the land. The current zoning regulations require setbacks of thirty (30) feet from the front property line and fifteen (15) feet from the side. In 1904, a right of way existed to the south of the property. It is very wooded and not used. Walker Street currently ends at the edge of the Bisson property. They are proposing to improve Walker Street and add a turn around for the use of town vehicles.

B. Levenson inquired about the right of way.

T. Benedict said that the right of way is a class VI road on paper but there is no road there currently.

R. Westergren wondered what the purpose was.

L. White stated that years ago, roads didn't have to be as wide as they are today and the houses were built right up to the road. The right of way was supposed to exit onto West Street but it was never developed.

T. Benedict said there was a substantial water problem that they believe was the result of the construction of the high school.

B. Levenson wondered if this would improve the situation or make it worse.

T. Benedict stated that once the skating rink is removed and the land is groomed and developed, it might improve the situation.

B. Levenson asked if they would extend Walker Street.

T. Benedict stated they would extend it a bit to allow for snow storage on the end and for a driveway for the proposed dwelling.

B. Levenson asked why they didn't move the house to the right and use the easement for access to the house.

L. White said that would not allow for much of a front yard.

T. Benedict stated that they would be in the wetland buffer. No disturbance is allowed in the wetlands and no buildings can be constructed in them.

K. Bauer asked how much of the buffer they were planning to disturb during the construction.

T. Benedict stated they are not planning to disturb much of the wetland buffer; they would not go more than five (5) feet into the wetland buffer. They would install the required silt fence.

L. White said the proposed house would be small, possibly for an older couple that have downsized.

R. Westergren asked about the size of the proposed house.

L. White said it was to be thirty four (34) feet by twenty six (26) feet built on a slab, with no basement. The house lot drains to the street. He also said that if the board doesn't approve this, the town would not get the turnaround that could be used during snow removal and by emergency vehicles. He stated the town is satisfied with the proposed plan.

T. Benedict said there was a vacant lot across the street from this lot. The house on the other side of the street is 230 feet away. The closest house to the lot is owned by the Perry's and is ninety (90) feet away. He felt that moving the house five (5) feet closer to the front property line and into the right of way seems extreme.

B. Levenson asked about the Walker Street description that was included in the packet.

T. Benedict stated that Lorraine Carson, lands researcher, had done the research.

B. Levenson stated that her research indicated Walker Street was not officially a town-accepted road, there was no record of conveyance of the road to the town.

L. White said that L. Carson created the history.

B. Levenson stated his first reaction is that this is not a town road.

K. Bauer stated that to her, this is not a problem; the town has maintained the road for many years, since 1904. She then asked if there was more to present or if there were any comments.

R. Westergren asked if it was approved for town water and sewer.

T. Benedict stated the existing water and sewer were very close by.

L. White stated that he met with the town officials on site and they were fine with the project and were anxious to get a turn around.

T. Benedict said that existing lots of record have been problematic in Milford.

K. Bauer asked if there were any questions from the abutters.

Robert Perry stated they had purchased their home six (6) years ago because it sits on the back of the property. His concerns were about what could eventually be built on this lot. The realtor showed him that the lot was wetlands and that nothing could be built on it. Since then, the skating rink was built but it didn't impact anything the way a new house would with its close proximity and the fact that a special exception would be required to build, due to the wetlands.

Catherine Perry stated that her first concern is an environmental one. Once the trees were cut down for the skating rink, the squirrels were displaced to her yard. If more trees were cut, more squirrels would go into her yard. She inquired about the pink and orange ribbons on the site.

T. Benedict replied that the pink ones were to indicate wetlands and the orange ones are for the surveyors as a control.

C. Perry said there was much wildlife on the lot and they would be impacted by the construction. She also stated her view would change with the addition of the house. She was also concerned by the wetlands and what construction would do to the water and if it would affect her property; she also stated her yard floods now.

T. Benedict stated he is not an engineer but he is a land surveyor. By removing the skating rink and the pitching the grade of the yard toward the road, it should allow the water to drain toward the road and lessen the amount of water on their land. The town of Milford requires a site plan before the building permit is approved.

L. White stated if water is currently pooling on their property, this would improve it; it would drain toward the street.

T. Benedict stated that the ice rink is an eye sore and a small house would be an improvement.

L. White stated they would not be cutting any trees in the wetlands buffer.

C. Perry said she was concerned with the trees near the rock wall and wondered if they would ever be cut down.

L. White said they would not be cutting any trees further than five (5) feet away from the slab footprint.

Rod Dellafelice, from the Conservation Commission, asked if there was a way to mark wetlands, so people would know they are there, since most people don't know that.

T. Benedict said there was no town policy for marking the wetlands but there are instances around town where the trees are tagged to mark the buffer.

L. White stated he could put flagging around the buffer.

B. Levenson stated the best way to make sure of that would be to put a deed restriction on the lot. He suggested they speak with the Conservation Commission about that.

T. Benedict went on to respond to the five criteria for a special exception.

1. The proposed use shall be similar to those permitted in the district:

T. Benedict replied that the proposed use will not change; the proposed structure will be a single-family dwelling, thirty four (34) feet by twenty six (26) feet.

2. The specific site is an appropriate location for the proposed use because:

T. Benedict stated that they are limited in the placement of the single-family home due to the wetlands; this position is the best location for the dwelling and the proposed house would be furthest away from the surrounding houses.

3. The use as developed will not adversely affect the adjacent area because:

T. Benedict replied the location of the lot is at the very end of Walker Street and will not be close to any of the existing surrounding homes.

4. There will be no nuisance or serious hazard to vehicles or pedestrians:

T. Benedict stated that the street is a dead end and the only additional traffic would be the residents of the proposed home.

5. Adequate appropriate facilities will be provided for the proper operation of the proposed use because:

T. Benedict stated that an additional condition for the building of the dwelling is the construction of a new hammerhead turn around at the end of the street for the use of emergency vehicles and snow removal. That construction would improve that situation.

K. Bauer stated that the last item was one of K. Lynch's requirements for construction and it was not a dimensional issue.

R. Pieper asked about the existing shed located in the wetlands and if there was any intention to move it.

T. Benedict stated that was placed there before anyone knew about wetlands.

L. White stated that the shed would be moved.

K. Bauer then closed the public portion of the meeting.

1. The proposed use shall be similar to those permitted in the district:

K. Bauer stated that they all knew it was similar to those in the district.

2. The specific site is an appropriate location for the proposed use because:

B. Levenson said the Walker Street paper included in the packet troubled him; it creates an unknown for him and shows the town does not own the street, even though the town maintains it.

K. Bauer stated that no one else had a problem with that item; if the road were not maintained, there would be a question.

R. Westergren stated that there was water and sewer there and it was already established and functioning as a class V road; he was fine with it.

R. Pieper said the road was functioning as a class V road and that was fine with him.

K. Bauer replied that if the town considered the road to be a class V, and in this case, that was sufficient for her. She asked if any one had problems with the location of the house.

R. Pieper stated he was lukewarm about the location of the house.

3. The use as developed will not adversely affect the adjacent area because:

K. Bauer stated she heard the concerns of the abutters and can sympathize but because of the wetland restrictions of the property, the proposed use does not hugely affect the adjacent area. In this case, the wetlands are in the abutters favor as there will be no clear cutting.

R. Pieper stated that the wetland buffer forces the construction further away from the Perry property, as some additional buffer for them.

4. There will be no nuisance or serious hazard to vehicles or pedestrians:

R. Pieper stated the addition of the turnaround might make the situation better for the residents.

5. Adequate appropriate facilities will be provided for the proper operation of the proposed use because:

There was no discussion.

K. Bauer called for the vote.

1. Is the exception allowed by the Ordinance?

R. Pieper – yes R. Westergren – yes F. Seagroves – yes B. Levenson – yes

K. Bauer – yes

2. Are the specified conditions present under which the exception may be granted?

R. Westergren – yes F. Seagroves – yes B. Levenson – no R. Pieper – yes

K. Bauer – yes

K. Bauer asked for a motion to approve case #4-07 for a special exception.

R. Pieper made the motion to approve case #4-07.

R. Westergren seconded the motion.

Final Vote:

F. Seagroves – yes B. Levenson – no R. Pieper – yes R. Westergren – yes

K. Bauer – yes

K. Bauer stated the case was approved by a 4-1 vote and reminded the applicant there was a 30-day appeal period.